

ENABLING STATUTES
STATE ELECTIONS ENFORCEMENT COMMISSION
Effective January 1, 2006

Sec. 9-7a. (Formerly Sec. 9-368a). State Elections Enforcement Commission.

Reports. Political activity of members. Written complaints. (a) There is established a State Elections Enforcement Commission to consist of five members, not more than two of whom shall be members of the same political party and at least one of whom shall not be affiliated with any political party. Of the members first appointed hereunder, one shall be appointed by the minority leader of the House of Representatives and shall hold office for a term of one year from July 1, 1974; one shall be appointed by the minority leader of the Senate and shall hold office for a term of three years from said July first; one shall be appointed by the speaker of the House of Representatives and shall hold office for a term of one year from said July first; one shall be appointed by the president pro tempore of the Senate and shall hold office for a term of three years from said July first, and one shall be appointed by the Governor, provided that such member shall not be affiliated with any political party, and shall hold office for a term of five years from said July first. Thereafter, members shall be appointed for terms of five years from July first in the year of their appointment and shall be appointed by the person holding the same office as was held by the person making the original appointment, provided any person chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. All appointments shall be made with the consent of the state Senate and House of Representatives, provided the initial appointees may serve without confirmation from July 1, 1974, subject to approval at the next regular session of the General Assembly. No person who has served within the previous three years as a public official, other than a member of the State Elections Enforcement Commission, or who has served within the previous three years as a political party officer, shall be appointed to membership on the commission. For purposes of this subsection the term "public official" means an individual who holds or has held a state, district or municipal office as defined in section 9-372 but shall not include a justice of the peace or a notary public and the term "political party officer" means an officer or member of a national committee of a political party, state central or town committee, or any person employed by any such committee for compensation. The commission shall elect one of its members to serve as chairperson and another member to serve as vice-chairperson. Each member of the commission shall be compensated at the rate of fifty dollars per day for any day on which he participates in a regular commission meeting or hearing, and shall be paid by the state for his reasonable expenses, including necessary stenographic and clerical help.

(b) A vacancy in the commission shall not impair the right of the remaining members to exercise all the powers of the commission, and three members of said commission shall constitute a quorum.

(c) The commission shall at the close of each fiscal year report to the General Assembly and the Governor concerning the action it has taken including, but not limited to a list of all complaints investigated by the commission and the disposition of each such complaint, by voting districts, where the alleged violation occurred; the names, salaries and duties of the individuals in its employ and the money it has disbursed; and shall make such further reports on the matters within its jurisdiction and such recommendations for further legislation as may appear desirable.

(d) The commission shall, subject to the provisions of chapter 67, employ such employees as may be necessary to carry out the provisions of this section, section 9-7b and section 9-333y and may apply to the Commissioner of Public Safety or to the Chief State's Attorney for necessary investigatory personnel, which the same are hereby authorized to provide.

(e) Notwithstanding the provisions of sections 5-266a and 5-266b, no member or employee of the commission shall (1) be a candidate in any primary or election, (2) hold any elected public office, provided a member or employee of the commission who holds an elected public office as of October 1, 1994, may continue to hold such office prior to April 1, 1995, (3) be a political party officer, as defined in subsection (a) of this section, or (4) hold any office of any committee, as defined in section 9-333a. The members and employees of the commission shall otherwise be subject to the provisions of sections 5-266a and 5-266b.

(f) The commission shall not be construed to be a board or commission within the meaning of section 4-9a.

(g) In the case of a written complaint filed with the commission pursuant to section 9-7b on or after January 1, 1988, if the commission does not, by the sixtieth day following receipt of the complaint, either issue a decision or render its determination that probable cause or no probable cause exists for one or more violations of state election laws, the complainant or respondent may apply to the superior court for the judicial district of Hartford for an order to show cause why the commission has not acted upon the complaint and to provide evidence that the commission has unreasonably delayed action. Such proceeding shall be privileged with respect to assignment for trial. The commission shall appear and give appropriate explanation in the matter. The court may, in its discretion, order the commission to: (1) Continue to proceed pursuant to section 9-7b, (2) act by a date certain or (3) refer the complaint to the Chief State's Attorney. Nothing in this subsection shall require the commission, in any proceeding brought pursuant to this subsection, to disclose records or documents which are not required to be disclosed pursuant to subsection (b) of section 1-210. Nothing in this subsection shall preclude the commission from continuing its investigation or taking any action permitted by section 9-7b, unless otherwise ordered by the court. The commission or any other party may, within seven days after a decision by the court under this subsection, file an appeal of the decision with the Appellate Court.

Sec. 9-7b. (Formerly Sec. 9-368b). State Elections Enforcement Commission's duties and powers. (a) The State Elections Enforcement Commission shall have the following duties and powers:

(1) To make investigations on its own initiative or with respect to statements filed with the commission by the Secretary of the State or any town clerk, or upon written complaint under oath by any individual, with respect to alleged violations of any provision of the general statutes relating to any election or referendum, any primary held pursuant to section 9-423, 9-425 or 9-464 or any primary held pursuant to a special act, and to hold hearings when the commission deems necessary to investigate violations of any provisions of the general statutes relating to any such election, primary or referendum, and for the purpose of such hearings the commission may administer oaths, examine witnesses and receive oral and documentary evidence, and shall have the power to subpoena witnesses under procedural rules the commission shall adopt, to compel their attendance and to require the production for examination of any books and papers which the commission deems relevant to any matter under investigation or in question. In connection with its investigation of any alleged violation of any provision of chapter 145, or of any provision of section 9-359 or section 9-359a, the commission shall also have the power to subpoena any municipal clerk and to require the production for examination of any absentee ballot, inner and outer envelope from which any such ballot has been removed, depository envelope containing any such ballot or inner or outer envelope as provided in sections 9-150a and 9-150b and any other record, form or document as provided in section 9-150b, in connection with the election, primary or referendum to which the investigation relates. In case of a refusal to comply with any subpoena issued pursuant to this subsection or to testify with respect to any matter upon which that person may be lawfully interrogated, the superior court for the judicial district of Hartford, on application of the commission, may issue an order requiring such person to comply with such subpoena and to testify; failure to obey any such order of the court may be punished by the court as a contempt thereof. In any matter under investigation which concerns the operation or inspection of or outcome recorded on any voting machine, the commission may issue an order to the municipal clerk to impound such machine until the investigation is completed;

(2) To levy a civil penalty not to exceed (A) two thousand dollars per offense against any person the commission finds to be in violation of any provision of chapter 145, part V of chapter 146, part I of chapter 147, chapter 148, section 9-12, subsection (a) of section 9-17, section 9-19b, 9-19e, 9-19g, 9-19h, 9-19i, 9-20, 9-21, 9-23a, 9-23g, 9-23h, 9-23j to 9-23o, inclusive, 9-23r, 9-26, 9-31a, 9-32, 9-35, 9-35b, 9-35c, 9-40a, 9-42, 9-43, 9-50a, 9-56, 9-59, 9-168d, 9-170, 9-171, 9-172, 9-232i to 9-232o, inclusive, 9-404a to 9-404c, inclusive, 9-409, 9-410, 9-412, 9-436, 9-436a, 9-453e to 9-453h, inclusive, 9-453k or 9-453o, (B) two thousand dollars per offense against any town clerk, registrar of voters, an appointee or designee of a town clerk or registrar of voters, or any other election or primary official whom the commission finds to have failed to discharge a duty imposed by any provision of chapter 146 or 147, (C) two thousand dollars per offense against any person the commission finds to have (i) improperly voted in any election, primary or referendum, and (ii) not been legally qualified to vote in such election, primary or referendum, or (D) two thousand dollars per offense or twice the amount of

any improper payment or contribution, whichever is greater, against any person the commission finds to be in violation of any provision of chapter 150. The commission may levy a civil penalty against any person under subparagraph (A), (B), (C) or (D) of this subdivision only after giving the person an opportunity to be heard at a hearing conducted in accordance with sections 4-176e to 4-184, inclusive. In the case of failure to pay any such penalty levied pursuant to this subsection within thirty days of written notice sent by certified or registered mail to such person, the superior court for the judicial district of Hartford, on application of the commission, may issue an order requiring such person to pay the penalty imposed and such court costs, state marshal's fees and attorney's fees incurred by the commission as the court may determine. Any civil penalties paid, collected or recovered under subparagraph (D) of this subdivision for a violation of any provision of chapter 150 applying to the office of the Treasurer shall be deposited on a pro rata basis in any trust funds, as defined in section 3-13c, affected by such violation;

(3) (A) To issue an order requiring any person the commission finds to have received any contribution or payment which is prohibited by any of the provisions of chapter 150, after an opportunity to be heard at a hearing conducted in accordance with the provisions of sections 4-176e to 4-184, inclusive, to return such contribution or payment to the donor or payor, or to remit such contribution or payment to the state for deposit in the General Fund, whichever is deemed necessary to effectuate the purposes of chapter 150;

(B) To issue an order when the commission finds that an intentional violation of any provision of chapter 150 has been committed, after an opportunity to be heard at a hearing conducted in accordance with sections 4-176e to 4-184, inclusive, which order may contain one or more of the following sanctions: (i) Removal of a campaign treasurer, deputy campaign treasurer or solicitor; (ii) prohibition on serving as a campaign treasurer, deputy campaign treasurer or solicitor, for a period not to exceed four years; and (iii) in the case of a party committee or a political committee, suspension of all political activities, including, but not limited to, the receipt of contributions and the making of expenditures, provided the commission may not order such a suspension unless the commission has previously ordered the removal of the campaign treasurer and notifies the officers of the committee that the commission is considering such suspension;

(C) To issue an order revoking any person's eligibility to be appointed or serve as an election, primary or referendum official or unofficial checker or in any capacity at the polls on the day of an election, primary or referendum, when the commission finds such person has intentionally violated any provision of the general statutes relating to the conduct of an election, primary or referendum, after an opportunity to be heard at a hearing conducted in accordance with sections 4-176e to 4-184, inclusive;

(D) To issue an order to enforce the provisions of the Help America Vote Act, P.L. 107-252, as amended from time to time, as the commission deems appropriate;

(E) To issue an order following the commission's determination of the right of an individual to be or remain an elector when such determination is made (i) pursuant to an appeal taken to the commission from a decision of the registrars of voters or board of

admission of electors under section 9-317, as amended by this act, or (ii) following the commission's investigation pursuant to subdivision (1) of this subsection;

(4) To inspect or audit at any reasonable time and upon reasonable notice the accounts or records of any campaign treasurer or principal campaign treasurer, as required by chapter 150 and to audit any such election, primary or referendum held within the state; provided, (A) (i) not later than two months preceding the day of an election at which a candidate is seeking election, the commission shall complete any audit it has initiated in the absence of a complaint that involves a committee of the same candidate from a previous election, and (ii) during the two-month period preceding the day of an election at which a candidate is seeking election, the commission shall not initiate an audit in the absence of a complaint that involves a committee of the same candidate from a previous election, and (B) the commission shall not audit any caucus, as defined in subdivision (1) of section 9-372;

(5) To attempt to secure voluntary compliance, by informal methods of conference, conciliation and persuasion, with any provision of chapters 149 to 153, inclusive, or any other provision of the general statutes relating to any such election, primary or referendum;

(6) To consult with the Secretary of the State, the Chief State's Attorney or the Attorney General on any matter which the commission deems appropriate;

(7) To refer to the Chief State's Attorney evidence bearing upon violation of any provision of chapters 149 to 153, inclusive, or any other provision of the general statutes pertaining to or relating to any such election, primary or referendum;

(8) To refer to the Attorney General evidence for injunctive relief and any other ancillary equitable relief in the circumstances of subdivision (7) of this subsection. Nothing in this subdivision shall preclude a person who claims that he is aggrieved by a violation of any provision of chapter 152 or any other provision of the general statutes relating to referenda from pursuing injunctive and any other ancillary equitable relief directly from the Superior Court by the filing of a complaint;

(9) To refer to the Attorney General evidence pertaining to any ruling which the commission finds to be in error made by election officials in connection with any election, primary or referendum. Those remedies and procedures available to parties claiming to be aggrieved under the provisions of sections 9-323, 9-324, 9-328 and 9-329a shall apply to any complaint brought by the Attorney General as a result of the provisions of this subdivision;

(10) To consult with the United States Department of Justice and the United States Attorney for Connecticut on any investigation pertaining to a violation of this section, section 9-12, subsection (a) of section 9-17 or section 9-19b, 9-19e, 9-19g, 9-19h, 9-19i, 9-20, 9-21, 9-23a, 9-23g, 9-23h, 9-23j to 9-23o, inclusive, 9-26, 9-31a, 9-32, 9-35, 9-35b, 9-35c, 9-40a, 9-42, 9-43, 9-50a, 9-56 or 9-59 and to refer to said department and attorney

evidence bearing upon any such violation for prosecution under the provisions of the National Voter Registration Act of 1993, P.L. 103-31, as amended from time to time;

(11) To inspect reports filed with the Secretary of the State and with town clerks pursuant to chapter 150 and refer to the Chief State's Attorney evidence bearing upon any violation of law therein if such violation was committed knowingly and wilfully;

(12) To intervene in any action brought pursuant to the provisions of sections 9-323, 9-324, 9-328 and 9-329a upon application to the court in which such action is brought when in the opinion of the court it is necessary to preserve evidence of possible criminal violation of the election laws;

(13) To adopt and publish regulations pursuant to chapter 54 to carry out the provisions of section 9-7a, this section and chapter 150; to issue upon request and publish advisory opinions in the Connecticut Law Journal upon the requirements of chapter 150, and to make recommendations to the General Assembly concerning suggested revisions of the election laws;

(14) To the extent that the Elections Enforcement Commission is involved in the investigation of alleged or suspected criminal violations of any provision of the general statutes pertaining to or relating to any such election, primary or referendum and is engaged in such investigation for the purpose of presenting evidence to the Chief State's Attorney, the Elections Enforcement Commission shall be deemed a law enforcement agency for purposes of subdivision (3) of subsection (b) of section 1-210, provided nothing in this section shall be construed to exempt the Elections Enforcement Commission in any other respect from the requirements of the Freedom of Information Act, as defined in section 1-200;

(15) To enter into such contractual agreements as may be necessary for the discharge of its duties, within the limits of its appropriated funds and in accordance with established procedures;

(16) To provide the Secretary of the State with notice and copies of all decisions rendered by the commission in contested cases, advisory opinions and declaratory judgments, at the time such decisions, judgments and opinions are made or issued;

(17) To receive and determine complaints filed under the Help America Vote Act, P.L. 107-252, as amended from time to time, by any person who believes there is a violation of any provision of Title III of P.L. 107-252, as amended. Any complaint filed under this subdivision shall be in writing, notarized and signed and sworn by the person filing the complaint. At the request of the complainant, there shall be a hearing on the record, conducted in accordance with sections 4-167e to 4-184, inclusive. The commission shall make a final determination with respect to a complaint prior to the expiration of the ninety-day period beginning on the date the complaint is filed, unless the complainant consents to a longer period for making such determination. If the commission fails to meet the applicable deadline under this subdivision with respect to a complaint, the commission shall resolve the complaint within sixty days after the

expiration of such ninety-day period under an alternative dispute resolution procedure established by the commission.

(b) In the case of a refusal to comply with an order of the commission issued pursuant to subdivision (3) of subsection (a) of this section, the superior court for the judicial district of Hartford, on application of the commission, may issue a further order to comply. Failure to obey such further order may be punished by the court as a contempt thereof.

(P.A. 74-213, S. 2, 9; P.A. 75-202; 75-571, S. 32, 34; P.A. 76-249; P.A. 78-61, S. 1-4; 78-88, S. 1, 2; 78-106; 78-280, S. 6, 127; P.A. 79-363, S. 32, 38; 79-631, S. 6, 111; P.A. 80-212, S. 1, 4; P.A. 81-359, S. 1, 2; 81-447, S. 18, 23; P.A. 82-472, S. 23, 183; P.A. 83-583, S. 1, 6; P.A. 84-319, S. 4, 49; 84-437, S. 1, 4; 84-511, S. 3, 15; P.A. 85-489, S. 1; P.A. 86-1, S. 1, 5; 86-412, S. 1, 2; P.A. 87-532, S. 1, 10; P.A. 88-113; 88-230, S. 1, 12; 88-317, S. 52, 107; 88-347, S. 3, 4; P.A. 90-98, S. 1, 2; P.A. 93-30, S. 8, 14; 93-142, S. 4, 7, 8; 93-192, S. 1, 3; 93-386, S. 3, 5; P.A. 94-121, S. 31, 33; P.A. 95-122, S. 1; 95-220, S. 4-6; P.A. 97-47, S. 17; 97-107, S. 1, 2; 97-154, S. 2, 27; P.A. 00-43, S. 10, 19; P.A. 01-195, S. 15, 181; P.A. 03-223, S. 2; 03-241, S. 53, 65; P.A. 04-74, S. 4; 05-235, S. 6.)